

Minneapolis Community Development Agency

Request for City Council Action

Date: September 30, 2003

To: Council Member Sandra Colvin Roy, Transportation and Public Works Committee
Council Member Lisa Goodman, Community Development Committee
Council Member Barbara Johnson, Ways & Means/Budget Committee

Referral to: MCDA Board of Commissioners

Prepared by: Darrell Washington, CPED Senior Project Coordinator, (612) 673-5174

Presented by: Darrell Washington

Approved by: Lee Sheehy, Interim Director, CPED
Chuck Lutz, Deputy Director, CPED _____

Subject: Authorization to enter into a Phase 3 Development Agreement (Rental Components) with McCormack Baron Salazar, a Joint Powers Agreement with the Minneapolis Community Development Agency (MCDA) and the Minneapolis Public Housing Authority (MPHA) and a Cooperation Agreement with MPHA; Authorization for Special Assessments; Authorization for Public Improvements; Authorization to appropriate funds to Heritage Park budget, and Authorization to amend the agreement with SRF Consulting Group.

Previous Directives: On July 31, 1998, the City Council approved a resolution affirming a special Minnesota law relating to a housing transition tax increment district. On July 30, 1999, the City Council approved the Near North Community Redevelopment Plan. On March 24, 2000, the City Council approved the Near Northside Master Plan. On May 12, 2000, the City Council and MCDA Board approved a Master Development Agreement with McCormack Baron. On August 25, 2000, the City Council approved a Stage 1 Finance plan for the park, open space and infrastructure improvements to be constructed in Phase 1. On May 18, 2001 the City Council approved a financing strategy for the North-South Boulevard in Bassett Creek Valley. On June 8, 2001 the City Council and MCDA Board approved the business terms of the Phase 1 Development Agreement (Rental Components) and authorized City officials to enter into a Joint Powers Agreement with the MCDA and MPHA. On June 22, 2001, the City Council and MCDA Board approved the Hollman Transition TIF Plan, Modification No. 13 to the Grant Urban Renewal Plan, and Modification No. 84 to the Common Development Tax Increment Finance Plan. On December 28, 2001, the City Council approved Modification No. 14 to the Grant Urban Renewal Plan and Modification No. 87 to the Common Plan. On July 26, 2002, the City Council and MCDA Board approved the business terms of the Phase 2 Development Agreement (Rental Components), authorized City officials to enter into Joint Powers and Cooperation Agreements with the MCDA and MPHA, and authorized interim financing for site preparation activities.

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Equal Housing and Employment Opportunity

Neighborhood Group Notification: Not Applicable. The Near Northside Master Plan, on which Phase 3 of Heritage Park is based, was the subject of an extensive community process in 2000.

Consistency with *Building a City That Works*: The Heritage Park development is consistent with Goal 2: Ensure that an array of housing choices exists to meet the needs of our current residents and attract new residents to the city.

Comprehensive Plan Compliance : Heritage Park Phase 3 development is consistent with the Comprehensive Plan.

Zoning Code Compliance : Phase 3 is consistent with the current Zoning regulations.

Impact on MCDA Budget: (Check those that apply)

- ☐ No financial impact
- ☐ Action requires an appropriation increase to the MCDA Budget
- ☒ Action provides increased revenue for appropriation increase
- ☐ Action requires use of contingency or reserves
- ☐ Other financial impact (Explain):

Living Wage / Business Subsidy: Phase 3 of the Heritage Park development involves only housing, which is exempted from Living Wage and Business Subsidy Act requirements.

Job Linkage : Phase 3 of the Heritage Park development involves only housing, which is exempted from Job Linkage requirements.

Affirmative Action Compliance : The development agreement for Phase 3 will require the developer to comply with all applicable MCDA and City affirmative action goals.

Recommendation:

City Council Recommendations:

1. Approve the business terms for a Phase 3 Development Agreement (Rental Components) for Heritage Park among the City of Minneapolis, Minneapolis Community Development Agency, Minneapolis Public Housing Authority and McCormack Baron Salazar, Inc. (the "Phase 3 Development Agreement") as outlined in this report;
2. Authorize the appropriate City officials to execute the Phase 3 Development Agreement;
3. Authorize the appropriate City officials to enter into a Joint Powers Agreement for Phase 3 with MCDA and MPHA (the "Phase 3 Joint Powers Agreement");
4. Authorize the appropriate City officials to enter into a Cooperation Agreement for Phase 3 with MPHA;
5. Authorize the City Engineer to proceed with Heritage Park Phase 3 public improvements;
6. Designate the location, streets and improvements proposed to be made in connection with the Heritage Park Phase 3 project;

7. Receive an assessment cost estimate of \$1,344,700 for public infrastructure improvements;
8. Increase the appropriation in Public Works Permanent Improvement Capital Improvement Fund (4100 970 9719) by \$581,500, Public Works Sewer Construction Capital Improvement Fund (7300 970 9719) by \$155,500, and Public Works Water Capital Improvement Fund (7400 970 9719) by \$218,500;
9. Authorize the Board of Estimate and Taxation to issue and sell assessment bonds, in the total amount of \$995,500 (\$581,500 for streets, streetscape/sidewalk, street lighting; \$155,500 for sanitary sewers; \$218,500 for water mains) for public infrastructure improvements to be made in connection with the Heritage Park Phase 3 project;
10. Designate the Street Lighting Project Area as Street Lighting District Number 1293;
11. Increase the appropriation for Heritage Park infrastructure work (4100 970 9719) by \$139,200 and increase the Heritage Park revenue (4100 970 9719 Source 3755) for 2003 funding by the proceeds from the closing of the Phase 2 real estate transaction;
12. Increase the appropriation for Heritage Park infrastructure work (4100 970 9719) by \$1,964,000 and increase the Heritage Park revenue (4100 970 9719 Source 3210) for HUD HOPE VI Grant awarded to MPHA March 4, 2003 for public realm infrastructure costs;
13. Increase the appropriation for Heritage Park infrastructure work (4100 970 9719) by \$1,000 and increase the Heritage Park revenue (4100 970 9719 Source 3755) for payments by bidders for plan drawings.
14. Increase the appropriation for Heritage Park infrastructure work (4100 970 9719) by \$100 and increase the Heritage Park revenue (4100 970 9719 Source 3755) for erosion control fee reduction.
15. Increase the appropriation for Heritage Park infrastructure work (4100 970 9719) by \$1,000,000 and increase the Heritage Park revenue (4100 970 9719 Source 3225) for 2004 funding by the Mississippi Watershed Management Organization.
16. Authorize the proper City staff to enter into amendment to Agreement #14623 dated August 28, 1999 with SRF Consulting Group Inc., as follows: increase by \$1,185,000 for construction documentation/surveying/inspection, as-built plans, street light engineering, and platting, using appropriated funds detailed in report (below) and extend the Agreement completion date to December 31, 2004, and
17. Transmit this report to the MCDA Board of Commissioners for concurrence and approval.

MCDA Recommendations:

1. Approve the business terms for Heritage Park Phase 3 outlined in this report;
2. Authorize appropriate MCDA officials to execute the Phase 3 Development Agreement; and
3. Authorize the appropriate MCDA officials to enter into the Phase 3 Joint Powers Agreement.

Background/Supporting Information

Negotiations of the business terms in the Phase 3 Development Agreement (Rental Components) among the City of Minneapolis, the Minneapolis Community Development Agency ("MCDA"), the Minneapolis Public Housing Authority ("MPHA") (collectively, the "Public Entities") and McCormack Baron Salazar ("Developer") are completed. The business terms of the Phase 3 Development Agreement as negotiated among the parties are contained in the body of this report. Staff is recommending approval of the business terms and further recommends that the appropriate City and MCDA officials be authorized to execute the Phase 3 Development Agreement. Staff is also recommending that the appropriate City and MCDA officials be authorized to enter into a Joint Powers Agreement for Phase 3 with MPHA and that the proper City officials be authorized to execute a Cooperation Agreement with MPHA.

At the financial and real estate closings, the MPHA will enter into a Ground Lease, Regulatory and Operating Agreement and related agreements with the limited partnership formed by the Developer to own and operate the improvements for at least 60 years. The land will continually be owned by MPHA.

Heritage Park Development

The Heritage Park Redevelopment Project will result in 900 new housing units replacing the former Sumner Field, Olson, Glenwood, and Lyndale family public housing developments. The redevelopment is generally bounded by I-94 on east, Glenwood Ave. on the south, Girard Terrace and Humboldt Ave. N. on the west, and N. 7th Street N. and 12th Ave. N on the north. McCormack Baron Salazar Inc. of St. Louis is the master developer for the project and is partnered with the local firm of Legacy Management and Development Corporation. Limited partnerships are being formed for each of the separate rental housing phases. McCormack Baron and Legacy are the general partners in each of the limited partnerships. The limited partnerships will enter into long-term ground leases with MPHA and they will construct, own and manage the rental units.

Of the approximate nine-hundred (900) new housing units that will be constructed between 2002 and 2009, 440 will be rental units and approximately 360 units will provide homeownership opportunities. The remaining 100 units will be built for elderly public housing residents. The rental and for-sale housing units will be built for families of a variety of incomes. Of the 440 rental units, 200 units will be Hollman replacement family public housing (for families typically at or below 50% of area median income, most of whom are below 30% AMI) and 90 units will be constructed using tax-credit financing (for families at or below 60% of AMI). The remaining 150 rental units will be offered at market-rate rent levels. Of the approximately 360 ownership units, 15% will be affordable to families with incomes less than 60% of AMI, and an additional 15% will be affordable to families with incomes at or below 80% of AMI.

The Heritage Park Redevelopment Project is being implemented in four phases. The first two phases are located on the north side of Olson Memorial Highway and the third and fourth phases are on the south side of Olson. The Phase 1 rental units are completed, and leasing of the 232 rental units is underway. The 113 Phase 2 rental units are under construction with the first of those units to be leased in the summer of 2004. Phase 3 contains 95 rental units with completion anticipated by May 1, 2005.

Completion of the public infrastructure and site preparation work is anticipated to end 2004 for Phases 2 and 3 (rental). The installation of the remaining public infrastructure necessary for the ownership development (located both north and south of Olson Hwy.) is also scheduled for completion by the end of 2004.

The proposed completion timeline for all project phases is as follows:

Table 1		
Proposed Construction Completion Schedule		
Phases and Unit Type	No. of Units	Expected Completion Date
Phase 1 Rental	232	2003
Phase 1 Ownership	46	2005
Phase 2 Rental	113	2004
Phase 2 Ownership	121	2006
Phase 3 Rental	95	2005
Senior Public Housing	100	2005
Phase 3 Ownership (approx.)	95	2007
Phase 4 Ownership (approx.)	98	2009
<i>Total Number of Units</i>	900	

Phase 3 Rental Development Agreement terms

Phase 3 Rental Components

Phase 3 will contain 95 rental housing units as follows:

- 38 public housing rental units (for a total of 200 developed in Phases 1, 2 and 3);
- 17 tax credit (affordable) rental units; and
- 40 market-rate rental units.

The public housing units and other affordable rental units will be mixed within each building and will be physically indistinguishable from the market-rate units. All rental units, including the public housing units, will be privately owned and managed. Units will be a variety of types, including townhouses and walk-up apartments. Rental housing units in Phase 3 are targeted for completion by May 2005. In order to meet this completion date, the site preparation design work has been completed and a RFP has been issued (by MPHA) for a contractor to begin site prep activities in late October 2003. Site prep activities will be substantially completed by the end of 2003.

Site Preparation

The Public Entities will contract with the Developer to perform the following site preparation tasks:

- Clearing and grubbing of trees and vegetation from the site.
- Rough grading.
- Removing abandoned public and private utilities and remaining vestiges of former public housing if they conflict with necessary site preparation or housing construction activities for buildings.

The MPHA demolished two of its buildings prior to the start of the Developer's site preparation activities. These buildings were located directly south of Summit Academy OIC. The tenants (KMOJ Radio, and Glenwood-Lyndale Community Center & Clinic) were relocated into another building owned by MPHA located at 555 Girard Terrace.

The Public Entities are also obligated to ensure the site meets Minnesota Pollution Control Agency residential standards in regards to environmental conditions. The Public Entities are using Braun Intertec to develop a work plan for further investigation and, if necessary, a remediation plan.

Infrastructure

The City will construct roads and other public improvements on the site consistent with the approved Master Plan. The construction schedule for public improvements is being coordinated with the Developer's housing construction schedule. A street easement is being negotiated with Summit Academy/OIC for a slight shifting of the Bryant Avenue N. roadway, to better align with the roadway north of Olson Memorial Highway/TH55.

The funding for Phase 3 public activities is indicated in the following table:

<p style="text-align: center;">Table 2 Heritage Park Phase 3 Public Infrastructure Activities Budget</p>			
Uses		Sources	
Public Improvements (Streets, Lights, Sidewalks, Sanitary Sewers, Watermains, and Storm Drains)	\$1,344,700	Special Assessments	\$955,500
Street Easement	\$25,000	2003 City Capital Improvements	414,200
Development Block Site Preparation (clearing, removals, grading)	\$300,000	Tax Increment Financing	\$300,000
Site Prep., Environmental Evaluation and Remediation (clean-up)	\$250,000	TIF, Hennepin County, DTED, Met Council grants (to MCDA)	\$250,000
<i>Total Uses</i>	<i>\$1,919,700</i>	<i>Total Sources</i>	<i>\$1,919,700</i>

Recapture of Public Investment

Master Planning Costs

The Master Planning Agreement with the Developer specified that the City would cover both administrative fees to the Developer during the Master Planning process together with payments for their consultants and third party expenses. Costs incurred during the Master Planning phase totaled \$1.16 million. The parties agreed that a portion of these costs that a Developer would normally incur, but the City advance funded, would be reimbursed at the closing of each phase. During the Phase 1 negotiations, the parties agreed to a formulaic approach for reimbursement of the Master Planning costs that the Public Entities funded -- \$1,200 per unit developed (440 total). Reimbursement of the Master Planning costs by the Developer for Phase 1 and 2 (rental components) was \$414,000 (\$1,200 for each of the 345 rental units). Reimbursement of the Master Planning costs by the Developer in Phase 3 will total \$114,000 (\$1,200 for each of the 95 rental units).

Ground Lease Term and Repayment

MPHA owns the Phase 3 Rental site area. MPHA will lease the entire Phase 3 site to a limited partnership formed by the Developer for at least 60 years. At the end of the lease term, the entire project will revert to the ownership of MPHA. The lease terms are being negotiated between the MPHA and the Developer.

Housing Development Budget

The primary sources of funds to construct the 95 rental units in Phase 3 include contributions from MPHA Hollman settlement funds, Minnesota Housing Finance Agency, and MCDA.

Table 3			
Preliminary Phase 3 Rental Housing Development Budget			
Sources		Uses	
First Mortgage	\$3,998,000	Construction	\$15,500,000
Equity (Tax Credits from MHFA & MCDA)	\$6,116,900	Interest and Soft Costs	\$1,157,900
Public Housing Authority	\$7,458,000	Lease Up & Operating Reserve	\$410,400
Soft Loans (MCDA, MHFA)	\$1,554,400	Developer Fee	\$1,550,000
		Housing Authority Interest	\$329,000
		Project Contingency	\$180,000
<i>Total Sources</i>	<i>\$19,127,300</i>	<i>Total Uses</i>	<i>\$19,127,300</i>

Contracting and Employment Goals

The City Council in March 2000 approved goals for contracting and employment for work performed at Heritage Park. Both the Developer and the Public Entities are bound by the following goals:

Small and Underutilized Business Program:

- 25% Minority-Owned Business Goal
- 10% Women-Owned Business Goal

Workforce Goals:

- 33% Minority Goal - Skilled and/or Unskilled
- 5% Female Goal

HUD Section 3:

- 10% New Business Goal
- 30% New Hire Goal
- Procurement contracts for supplies and materials are not subject to Section 3

Apprenticeship Goal

Contractors or subcontractors with contract awards of \$1 million or more will commit to a goal of one new apprentice per \$1 million of contracted work - 90% of this goal will be achieved through hiring people of color from the community and the City of Minneapolis.

The Development Agreement also contains the standard language on nondiscrimination, equal employment opportunity, and hours and wages. The project specific apprenticeship goals are deemed to replace the general apprenticeship program goals.

Termination of Agreement by Public Entities or Developer

The Development Agreement contains language regarding termination of the Agreement by the parties.

- If the Agreement is terminated by the Public Entities, the Public Entities must compensate the Developer only for work products that have been accepted, provided they are useable and MPHA receives reimbursement from public housing development funds. The Public Entities may pursue any remedies or equity for Developer default.
- The Developer has the right to terminate the Agreement if the Public Entities are in default based on any action or failure to act that would jeopardize needed project approvals or cause the loss or termination of financial assistance. If a cure were not available, the Developer would be entitled to reimbursement of third party costs plus a reasonable profit allowance, costs of terminating subcontracts and certain legal and accounting costs.
- The parties also acknowledge there are development contingencies over which the Developer has limited or no control. Examples include public financing for project elements, timely completion of infrastructure, and unforeseen environmental or geotechnical conditions including the removal of hazardous materials. If a development contingency fails to occur and the parties are unable to resolve the problem, the Developer may withdraw and the Public Entities must reimburse the Developer for certain third party costs provided that (a) such tasks or products are useable by the Public Entities in its further carrying out of the Heritage Park Redevelopment; and (b) the Public Entities receive reimbursement for such works as recognized project costs from public housing development funds.

Joint Powers Agreement Among City of Minneapolis, MCDA and MPHA

The City of Minneapolis, MCDA and MPHA, while referred to collectively as the "Public Entities" in the Phase 3 Development Agreement, each have distinct responsibilities with respect to the Phase 3 development. MPHA is the owner of the land, and will be entering into a Ground Lease and related agreements with the limited partnerships formed by the Developer. The City of Minneapolis, through the Public Works Department, is responsible for constructing public infrastructure improvements and, through CPED, has overall project management responsibilities. The MCDA (staffed by CPED) is managing preparation of the site, including environmental remediation and property acquisitions. The proposed Joint Powers Agreement makes the relationships among the three Public Entities clear. Its major terms are as follows:

- The City will construct the right-of-way public improvements for the site.
- The MPHA acknowledges that, as the owner of the property, it is legally responsible for the environmental condition of the property, and that the MCDA is conducting the environmental activities for MPHA's benefit. Each party agrees to hold the other two harmless for environmental conditions caused by that party. With respect to unknown environmental conditions, MPHA agrees to hold the City and MCDA harmless.
- The City and MPHA will work cooperatively on many issues including: review of plans and specifications, review of development budget, geotechnical review, developer's financing review, approval of fees paid to the developer and monitoring monthly developer progress reports.
- MPHA will facilitate HUD review and approval of mixed-finance documents.
- The City will monitor most contracting and employment goals (e.g. prevailing wage, MBE, WBE, and apprenticeship goals).
- MPHA will monitor the HUD Section 3 contracting and employment goals.

Cooperation Agreement Between City of Minneapolis and MPHA

The City of Minneapolis is seeking to enter into an agreement with the Minneapolis Public Housing Authority (MPHA) to allow MPHA to make annual payments to the City in lieu of property taxes. This agreement would cause MPHA to submit an annual payment to the tax assessor equaling five percent (5%) of the total rent or shelter payments (excluding utility costs) for the Phase 3 public family housing units (38) within the Heritage Park development.

Public housing units in Minnesota are statutorily exempt from all real and personal property taxes levied or imposed upon by the State of Minnesota and its political subdivisions (City, County, Regional, etc.). In order to help pay for the local public services and facilities that the families living in public housing units consume (such as police, fire, park trails, etc.) the state allow the local jurisdiction to charge a nominal PILOT (Payment In Lieu Of Taxes) amount. This PILOT amount can range as low as five percent and as high as the amount agreed between the public authority and the local jurisdiction. The amount of the PILOT payment for the Phase 1 and Phase 2 areas of the Heritage Park development was set at five (5) percent.

According to Minnesota State Statutes (Chapter 469.040), once the public housing units are occupied the MPHA must file with the assessor a statement of the aggregate shelter rents collected during the preceding calendar year. The PILOT amount is calculated using the agreed percentage (5%) between the parties and this amount is distributed to the several taxing bodies in the same proportion as the total tax rate.

Special Assessments

This report designates the location, streets and improvements proposed to be made in connection with the Heritage Park Phase 3 project and requests authorization to construct public infrastructure items for the Phase 3 Rental portion of Heritage Park as petitioned by the Minneapolis Public Housing Authority.

The cost estimate for completing the public improvements is \$1,344,700 (see Table 2). The properties listed on the petition will be assessed \$955,500 to be collected over 20 years beginning on the 2005 real estate tax statements with interest charged at the same rate as the assessment bonds are sold. The levying of the assessments would be postponed until the work is substantially complete, approximately in the Fall of 2004.

As provided in Chapter 431 (Street Lighting) of the Minneapolis Code of Ordinances, the street lighting project area has been designated as Street Lighting District Number 1293. Properties exempt from real estate taxes pay for street lighting maintenance and operation costs through special assessments.

A signed petition from the property owners, waiving their rights to both a project approval public hearing and special assessment public hearing is on file with the Department of Public Works and a copy is attached to this report.

The MPHA-owned properties listed below will be assessed and also will be described as Heritage Park Phase 3 Outlots A and B (a map is attached to this report).

<u>All of current PID</u>	<u>Address</u>
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21 029 24 42 0006	1024 5 th Avenue North
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<u>Part of current PID</u>	<u>Address</u>
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21 029 24 41 0019	501 Lyndale Avenue North
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Additional Sources and Uses Authorizations

This report also seeks authorization for the following Heritage Park realized or forthcoming sources and uses. The "items" listed below correspond with the recommendations and provide further explanation.

Item 11: At the financial closing of Heritage Park's Phase 2, the City received \$139,200 in reimbursement of Master Planning costs from the Developer. The Public Entities will use these funds to pay the Developer their management fee of \$13,000 per month and, if remaining funds are available, other public infrastructure costs.

Item 12: In March, 2003, the Minneapolis Public Housing Authority was awarded a \$14.2 million federal HUD HOPE VI grant, which includes \$1,964,000 for reimbursement to the City from MPHA for costs for extraordinary public realm site conditions infrastructure work..

Item 13: Payments by prospective bidders for construction plan sets totaling \$1,000 have been deposited.

Item 14: A \$100 refund from the Minnesota Erosion Control Association (MECA) has been deposited.

Item 15: The Mississippi Watershed Management Organization in its 2004 Capital Plan is awarding \$1.0 million for Heritage Park infrastructure work for the Near North wetlands/water quality management system.

Item 16: SRF Consulting Group, Inc. will continue under Contract #14623 to complete the contract for contamination monitoring, construction surveying, and engineering and construction documents for Phases 3 and 4 infrastructure and open space components. No additional appropriation is necessary for amendment. The following is a breakdown of sources for payment of expenditures:

Sources to pay for the SRF Consulting Contract #14623 (Item 16)	Amount	Appropriated to Fund Agency Org
Met Council Livable Communities Demonstration Account	\$302,000	4100 970 9719
HUD HOPE VI Grant	278,000	4100 970 9719
Section 108 loan / July 26, 2002-approved interim financing (to be reimbursed by tax increment bonds)	265,000	4100 970 9719
Mississippi Watershed Management Organization	111,000	4100 970 9719
Special assessments (streets, lights, sidewalks)	86,000	4100 970 9719
2004 city capital improvements	53,000	4100 970 9719
Special assessments (watermains)	45,000	7400 970 9719
Special assessments (sewers)	45,000	7300 970 9719
<i>Total</i>	\$1,185,000	

Exhibits

The following materials are attached as Exhibits:

- Exhibit 1 - A map of the Heritage Park development that highlights the Phase 3 development area
- Exhibit 2 - Petition to assess certain properties for public infrastructure work